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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/617,935	08/17/00	SHAPIRO A	RD26643USA

006147
GENERAL ELECTRIC COMPANY
CRD PATENT DOCKET ROOM 4A59
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QM02/0412

EXAMINER	
TAPOLCAI,W	
ART UNIT	**PAPER NUMBER**
3744	5

DATE MAILED: 04/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/617,935	SHAPIRO ET AL.	
	Examiner	Art Unit	
	William E. Tapolcai	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-92* is/are pending in the application.

4a) Of the above claim(s) *28-92* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17 and 20-27* is/are rejected.

7)☒ Claim(s) *18 and 19* is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other: .

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-27, drawn to an ice maker comprising a flexible belt conveyor, classified in class 62, subclass 353.

II. Claims 28-85, drawn to an ice maker comprising a flexible belt conveyor with a storage bin in the door of the freezer, classified in class 62, subclass 344.

III. Claims 86-92, drawn to an ice maker with an ice crusher and an auger mechanism, classified in class 62, subclass 320.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination recites the details of the storage bin in the freezer door. The subcombination has separate utility such as by itself without the storage bin.

3. Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the

particulars of the subcombination as claimed because the combination recites the details of the storage bin in the freezer door without the ice crusher. The subcombination has separate utility such as by itself without the ice crusher.

4. Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as by itself without the ice crusher. See MPEP § 806.05(d).

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Patrick Patnode on April 6, 2001 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-27. Affirmation of this election must be made by applicant in replying to this Office action. Claims 28-92 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lutes et al. Lutes et al discloses a flexible belt conveyor having a plurality of ice cube molds therein. The belt is considered to be inherently fitted in tension around the front and rear rollers 21, 24. Alternatively, it is considered to be well known to fit a conveyor belt in tension around a pair of rollers, and to fit the belt of Lutes et al in tension around the rollers is thus considered an obvious expedient to one of ordinary skill in the art.

11. Claims 2-11, 17, 22, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutes et al. Lutes et al discloses the claimed invention except for the provision of the refrigerator having two compartments, and the material of the belt, and the dimensions and arrangements of the belt. Refrigerators having a fresh and a freezer compartment are notoriously well known, and to use the ice maker of Lutes et al in such a refrigerator is considered to be an obvious expedient to one of ordinary skill in the art. Also, the dimensions and materials of the belt are considered to be matters of obvious choice to one skilled in the art.

12. Claims 12-16, 20, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutes et al in view of Gould. Lutes et al discloses the claimed invention except for the provision of a drive motor for the belt. Gould teaches an ice maker having a flexible belt and a drive motor 50 therefor. It would be obvious to provide Lutes et al with a drive motor for the conveyor belt, in view of Gould, for the purpose of making it easy to operate the ice maker.

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lutes et al in view of Goetz et al. Lutes et al discloses the claimed invention except for the ice crusher. Goetz et al teaches an ice maker with an ice crusher. It would be obvious to provide Lutes et al with an ice crusher therefor, in view of Goetz et al, for the purpose of reducing the size of the ice pieces.

14. Claim 22 recites the limitation "said second motor" in line 1. There is insufficient antecedent basis for this limitation in the claim.

15. Claims 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (703) 308-2640. The examiner can normally be reached on Mon. - Thurs., 6:30 to 4 and alternate Fridays..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Henry Bennett can be reached on (703) 308-0895. The fax phone numbers

for the organization where this application or proceeding is assigned are (703) 308-7764 for regular communications and (703) 308-7764 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0975.

William E. Tapolcai
Primary Examiner
Art Unit 3744

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April 10, 2001